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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1432 of 2018

- Shriram General Insurance Co. Ltd., Mohba Bazar, Maruti Heights, 4th Floor, Raipur, District Raipur, Chhattisgarh

---- Appellant/Insurer/Non-applicant No.2

Versus

1. Mannu Singh Sidar, son of Shri Sukhan Singh Sidar, aged about 52 years
2. Smt. Jayanti Bai, wife of Shri Mannu Singh Sidar, aged about 49 years
(Claimants)
Both residents of village Navgava, Thana Baloda, District Janjgir Champa, Chhattisgarh
3. Jagdish Pal Dhankar, son of Late Shri Ramprasad Dhankar, aged about 49 years, resident of Raoudh, Thana Dhamdha, District Durg, Chhattisgarh
Presently residing at Sector 1, Street No. 36, Quarter No. 1-C, Thana Bhatti, Bhilai, District Durg, Chhattisgarh
(Owner-Driver/Non-applicant No.1)

---- Respondents

For Appellant	:	Shri K. Rohan, Advocate appears on behalf of Shri Amrito Das, Advocate
For Respondents	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

05.04.2019

1. Heard on I.A. No. 1 of 2018, application for condonation of delay of 03 days in filing the appeal.
2. For the reasons mentioned in the said application, which is duly supported by affidavit, delay in filing the appeal is hereby condoned.
3. Heard on admission.
4. This appeal is by the Insurance Company/non-applicant No.2/Appellant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 08.05.2018 passed by the Second Additional Motor Accident Claims Tribunal, Raigarh (C.G.) in Claim Case No. 04 of 2017 awarding total compensation of

Rs.15,23,400/- with interest @ 8% per annum from the date of application till realization, fastening liability on the Insurance Company/non-applicant No.2.

5. Facts of the case are that on 29.05.2016 at about 03:00 pm, deceased Pratap Singh aged about 27 years and his friend Ajay Mahilange were coming by motorcycle bearing registration No. CG-11/CK/1712 after performing his duties at National Thermal Power Corporation (NTPC). When they reached in front of Primary School at Village Baispali, one offending vehicle Truck bearing registration No. CG-04/J/8344 which was coming from back side and being driven by non-applicant No. 1 in rash and negligent manner, dashed the motorcycle. As a result thereof, Pratap Singh sustained grievous injuries on his head and stomach and he came under the wheel of the said truck and died on spot. At the time of accident, deceased Pratap Singh was ridding the motorcycle and his friend Ajay Mahilange was the pillion rider of the same.

6. Learned counsel for the Appellant/Insurance Company raises only one issue that the learned Tribunal has wrongly considered the income of the deceased as Rs.10,650/- per month as skilled labour, whereas the deceased was unskilled labour. He also submits that only on the basis of gate-pass (Ex.-P/5) issued by the NTPC in favour of the deceased, the Tribunal has wrongly considered that the deceased was skilled labour, it cannot be treated as a valid document as author of gate-pass has not been examined before the Tribunal, therefore, the deceased was to be considered as an unskilled labour.

7. Heard learned counsel for the Appellant/Insurance Company and perused the material available on record.

8. It is not disputed by learned counsel for the Appellant/Insurance Company that the accident occurred on 29.05.2016 due to rash and negligent driving of the offending vehicle Truck by non-applicant No.1 and at the time of accident, offending vehicle was duly insured with the Appellant/non-applicant No.2. Looking to the statement of Claimant No.2, who was mother of the deceased, examined as AW-1, wherein she specifically proved this fact that the deceased was doing the work of

fitter in NTPC and after performing his duties, he was returning alongwith Ajay Mahilange (AW-2), who is eyewitness of the incident, to his house when the accident was happened, Ex.-P/5, gate-pass, which also establishes that the deceased was doing the work of fitter in NTPC and it was unchallenged before the Tribunal by the Appellant/Insurance Company, the Tribunal was justified in considering the deceased a skilled labour and has rightly awarded the compensation to the tune of Rs.15,23,400/- in favour of the Claimants which needs no interference by this Court.

9. In the result, the appeal filed by the Insurance Company being without any substance deserves to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-

(Gautam Chourdiya)
Judge